



# CITY OF RICHMOND

## Department of Planning & Development Review *Staff Report*

**Ord. No. 2024-016:** To authorize the conditional use of the property known as 309 E Broad Street for the purpose of authorizing a nightclub, upon certain terms and conditions.

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**To:** City Planning Commission  
**From:** Land Use Administration  
**Date:** February 6, 2024

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### **PETITIONER**

Baker Development Resources

### **LOCATION**

309 E Broad Street

### **PURPOSE**

The applicant requests a Conditional Use Permit to authorize a nightclub use for hosting ticketed music events in a restaurant establishment. The proposed entertainment activities, hours of operation, and alcohol sales past 12:00 a.m. (midnight) are considered, by the Zoning Ordinance, to be nightclub activities. A conditional use permit is, therefore, required.

The property is zoned B-4 Central Business District. The proposed nightclub use would be operated in conjunction with the existing ground floor restaurant (known as Ember Music Hall) and would be regulated by the conditions of the management plan (Attachment 3) mandated by the conditional use permit.

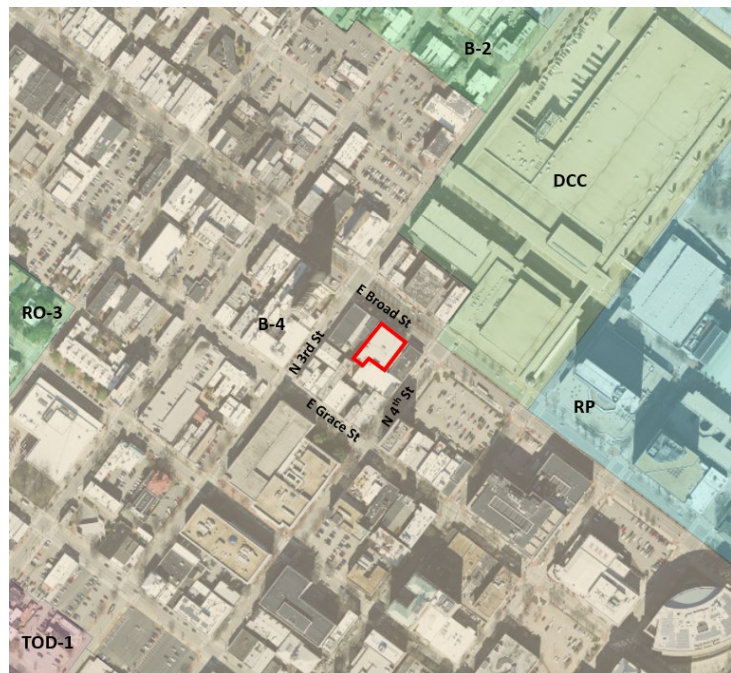


Figure 1 – 309 E Broad St Property Location and Surrounding Zoning Context (site outlined in red)

The management plan indicates that the nightclub use typically operates 4-8 hours, 2-4 days a week, which schedule is based upon a live show calendar. The applicant proposes operating the nightclub use between 12:00AM to 2:00AM any day of the week given the varying schedule. The applicants plan indicates indoor queuing for approximately 50 people and providing minimal spill over queuing areas outside along the front of the building that do not impede public sidewalk access. To minimize queuing, the plan indicates additional procedures to expedite entry into the venue, such as using an online platform for ticket purchasing, mobile check-in, and an express entry. Additionally, the applicants plan

describes staff that will monitor patrons, including 4-8 certified security personnel and box office cashier.

### **RECOMMENDATION**

The City's Richmond 300 Master Plan designates a future land use for the subject property as Downtown Mixed-Use. Staff has reviewed the application and finds the proposal is generally consistent with the Downtown Mixed-Use designation, which supports retail as a primary use and a mix of complementary uses in this district. Staff finds the master plan supports the proposed nightclub use, which is complementary to a dense urban environment.

Further, the property is proximate to the Downtown Core Priority Growth Node, which describes an 18-hour district (i.e. '18 hours of the day are lively and 6 are sleepy') so the nightclub use is aligned with the Downtown Core node vision in addition to the general context of ground floor commercial frontages provided along E Broad Street. (Richmond 300, p. 26)

Staff finds that the zoning conditions relative to the granting of a conditional use permit for a nightclub use have been met. Therefore, staff recommends approval of the conditional use permit request.

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### **FINDINGS OF FACT**

#### **Site Description & Surrounding Area**

The property consists of a 11,666 square foot (0.27 acre) parcel of land, occupied by an existing 3-story mixed-use building (309-315 Broad St). The scope of the proposal is limited to the ground floor (as shown on the submitted plans) of 309-311 Broad Street, which currently operates a restaurant and recreational/entertainment (music venue) use. The proposal includes providing amplified music, service of alcohol, floor space for entertaining patrons and extending the hours of operation to 2 a.m.

The property is part of the City Center area in the Downtown District, situated on a block bounded by E Broad St, E Grace St, N 3rd St and N 4th St. City Center neighborhood is generally made up of commercial uses including retail and office as well as multifamily and mixed-use buildings. The current zoning designation for this property and surrounding properties is B-4 – Central Business District. The subject property is fronting a priority street and has a street oriented commercial frontage.

#### **Proposed Use of the Property**

Nightclub use from 12:00AM to 2:00AM, within the existing recreational/entertainment establishment.

#### **Master Plan**

The City's recently adopted Richmond 300 Plan designates a future land use for the subject property as Downtown Mixed-Use. The Downtown Mixed-Use designation is described as the, "Central business district of the Richmond region [that] features high-density development with office buildings, residential buildings, and a mix of complementary uses, including regional destinations in a highly-walkable urban environment."

Development Style: Higher-density pedestrian- and transit-oriented development encouraged on vacant or underutilized sites. Historic buildings are adapted for new uses. Future development should be urban in form and may be of larger scale than existing context. Plazas and setbacks create an engaging street life. Many buildings are vertically mixed-use. New developments continue or introduce a gridded street pattern to increase connectivity.

Ground Floor: Ground floor uses engage with and enliven the street. Monolithic walls are discouraged, while windows, doors, storefronts, and other features that allow transparency and interaction between building and street are encouraged. Active commercial ground floor uses required on street-oriented commercial frontages.

Mobility: Pedestrian, bicycle, and transit access are prioritized and accommodated. Bike parking is provided. Driveway entrances are required to be off alleys whenever possible; new driveways are prohibited on priority and principal street frontages. Surface parking is prohibited as a principal use. Parking requirements are substantially less in these areas than other areas of the City and are largely eliminated.

Intensity: Buildings typically a minimum height of five stories.

Primary Use: Retail/office/ personal service, multi-family residential, cultural, institutional, government, and open space.

Secondary Uses: Not applicable. (Richmond 300, p. 66).

### **Zoning**

The zoning ordinance was amended in 2013 to establish a definition for nightclub use and distinguish a nightclub from a restaurant use. A nightclub is defined as any establishment in which all of the following features are made available at any time from 12:00 midnight until 6 a.m.:

- 1) Alcoholic beverage served or consumed on the premises;
- 2) Floor space provided for dancing or standing or both for patrons in conjunction with an entertainment activity;
- 3) Music or other sound that is amplified through speakers for the purpose of entertaining patrons, except for the following:
  - a. Sound associated with television or similar media being viewed by patrons; and
  - b. Music provided exclusively as background entertainment for dining patrons.

The subject property is located in the B-4 Central Business District, which allows a nightclub use as a conditional use, if the conditions prescribed by the Zoning Ordinance for such a use are met. A management plan is required as part of the conditional use permit, which the applicant has provided. The management plan has been attached to and incorporated into the conditional use permit ordinance.

### **Ordinance Conditions**

If adopted, the Conditional Use Permit would impose special conditions on the property, including:

- Pursuant to section 30-457.3 of the Code of the City of Richmond (2020), as amended, the use of the Property shall include a nightclub, substantially as shown on the Plans.
- Operation of the nightclub use permitted by this conditional use permit shall be conducted strictly in accordance with the document entitled “Ember Music Hall Management Plan,” prepared by 309 Broad Street, LLC, dated May 22, 2023, and last revised July 14, 2023, a copy of which is attached to and made part of this ordinance.
- The hours of operation of the nightclub use permitted by this conditional use permit shall be from 12:00 a.m. until 2:00 a.m., and the nightclub use shall not operate between the hours of 2:00 a.m. and 6:00 a.m.

- During the hours of operation of the nightclub use, patron queuing on the exterior of the building shall only be permitted directly adjacent to the building wall on the Property and without any improvements, temporary or otherwise, unless said improvements are approved according to the applicable provisions of the Code of the City of Richmond (2020), as amended, and all future amendments to such laws.
- Operation of the nightclub use permitted by this conditional use permit shall not constitute an exemption to providing sound control. The nightclub use shall be conducted strictly in accordance with Chapter 11, Article II of the Code of the City of Richmond (2020), as amended.

**Neighborhood Participation**

Staff notified area residents and property owners, as well as the Downtown Neighborhood Association. Staff has received no written public comments regarding the application.

**Staff Contact:**

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**Attachments:**

1. Application Coversheet
2. Applicant's Report
3. Plans
4. Map